

REMARKS

The present invention relates to transgenic plants modified to accumulate fructooligosaccharides.

In this Amendment, claim 1 has been amended to delete (c) and (d).

In view thereof, and for the reasons discussed below, Applicants respectfully submit that claims 1, 5, 6, and 10-12 meet all statutory requirements and are now in condition for allowance.

Applicants thank the Examiner for withdrawing the objection of claims 2, 13 and 16, the rejection of claim 11 under 35 U.S.C. § 101, and the rejection of claims 1-20 under 35 U.S.C. § 102(b) over Smeekens et al. (WO199601904) view of Applicants' Amendment filed August 7, 2008.

On page 3 of the Office Action, claims 1, 5, 6 and 10-12 remain rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the enablement requirement.

In response, and while not agreeing that the rejection is appropriate, claim 1 has been amended to delete (c) and (d). Applicants submit that since the Office Action states at page 3 that "the office action recognizes only SEQ ID NO:1 and does not acknowledged (sic) any variants of the sequences are taught by the specification," present claim 1 (and claims 5, 6 and 10-12) meets the enablement requirements under 35 U.S.C. § 112, first paragraph. Accordingly, withdrawal of this rejection is respectfully submitted to be proper.

On page 3 of the Office Action, claims 1, 5, 6 and 10-12 remain rejected under 35 U.S.C. § 112, first paragraph, for allegedly failing to comply with the written description requirement.

In response, and while not agreeing that the rejection is appropriate, claim 1 has been amended to delete (c) and (d). Applicants submit that since the Office Action states at page 4 that "Applicants have only demonstrated that SEQ ID NO:1 functions as a beta-fructofuranosidase," present claim 1 (and claims 5, 6 and 10-12) meets the written description requirements under 35 U.S.C. § 112, first paragraph. Accordingly, withdrawal of this rejection is respectfully submitted to be proper.

On page 4 of the Office Action, claims 1, 5, 6 and 10-12 are rejected under 35 U.S.C. § 112, second paragraph, for allegedly being indefinite.

In response, and while not agreeing that the rejection is appropriate, claim 1 has been amended to delete (d), thus rendering the rejection moot. Accordingly, withdrawal of this rejection is respectfully submitted to be proper.

On page 5 of the Office Action, claims 1, 5, 6 and 10-12 remain rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Smeekens et al. in view of Yanai et al. (U.S. Patent 6,337,201).

In response, and while not agreeing that the rejection is appropriate, claim 1 has been amended to delete (c) and (d). Applicants submit that present claim 1 (and claims 5, 6 and 10-12) is patentable over the cited documents, and further submit that one of the most important features of the present invention resides in that isomers of 1-kestose, such as 6-kestose and neokestose, are not detected. *See*, paragraphs [0005] and [0007] - [0008] of Applicants' published application 2006-0156436-A1. That is, generation of isomers of 1-kestose such as 6-kestose and neokestose can be inhibited by using the enzyme as recited in present claim 1. Applicants submit that this inhibition is neither taught nor suggested in the cited documents, and that the present invention provides an unexpectedly superior and advantageous effect over the cited documents.

Therefore, claim 1 is not obvious over the cited documents. Further, Applicants submit that claims 5, 6, and 10-12 are patentable over the cited documents by virtue of their dependency from claim 1. Accordingly, Applicants respectfully submit the present claims are not rendered obvious by Smeekens et al. in view of Yanai et al., and withdrawal of the rejection is respectfully submitted to be proper.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby earnestly solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.116
Application No.: 10/547,330

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,


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CUSTOMER NUMBER

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